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Attorneys for Plaintiff Blendtec Inc.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

BLENDTEC INC., a Utah corporation,
Plaintiff,

vs.

BLENDJET INC., a Delaware corporation,
Defendant.

**THIRD STIPULATED MOTION TO
AMEND SCHEDULING ORDER**

Civil No. 2:21-cv-00668-TC-DBP

Judge Tena Campbell

Magistrate Judge Dustin B. Pead

Pursuant to Fed. R. Civ. P. 16(b)(4) and for good cause, Plaintiff Blendtec Inc. (“Blendtec”) and defendant BlendJet, Inc. (“BlendJet”), through counsel, hereby stipulate and jointly move the Court to modify the Court’s November 29, 2022 Second Amended Scheduling Order (ECF No. 35). Contemporaneously herewith, the parties are filing a copy of the Proposed Third Amended Scheduling Order.

The close of fact discovery is set for March 31, 2023. ECF No. 35 at 1. The parties have engaged in discovery, including written discovery and ESI email production. Although the parties

expect to substantially complete the email and document productions that both sides have agreed to produce by or around March 17, 2023, and have been working hard toward that goal, there are several outstanding discovery issues that are unlikely to be complete by the March 31 discovery deadline. The outstanding discovery issues include eight pending motions related to discovery (ECF Nos. 50, 53, 66, 67, 68, 78, 79, and 82), discovery disputes that the parties are attempting to work through and resolve, additional motions to compel that may be forthcoming if the parties' attempts to resolve the outstanding issues are unsuccessful, third party document productions in response to subpoenas, and depositions.

Due to these outstanding discovery issues, and despite the parties' discovery efforts to date, the parties believe that a 90-day extension of all unexpired deadlines in the Scheduling Order is necessary to complete fact discovery in this case. As such, the parties hereby stipulate and jointly move the Court for a ninety (90) day extension of all unexpired deadlines in the Scheduling Order as follows:

Date per Second Amended Scheduling Order (ECF No. 35)	Stipulated New Date	Event
March 15, 2023	June 13, 2023	Rule 26(a)(2) Expert disclosures (subject and identity of experts) – parties bearing the burden of proof
March 31, 2023	June 29, 2023	Close of fact discovery
March 31, 2023	June 29, 2023	Rule 26(a)(2) Expert disclosures (subject and identity of experts) – counter disclosures
April 28, 2023	July 27, 2023	Rule 26(a)(2) Expert Reports – parties bearing burden of proof
June 30, 2023	September 28, 2023	Rule 26(a)(2) Expert Reports – counter reports
July 31, 2023	October 30, 2023	Last day for expert discovery

Date per Second Amended Scheduling Order (ECF No. 35)	Stipulated New Date	Event
September 15, 2023	December 14, 2023	Deadline for filing dispositive or potentially dispositive motions including <i>Daubert</i> motions to exclude expert testimony
September 22, 2023	December 21, 2023	Evaluate case for settlement/ADR
December 22, 2023	March 21, 2024	Plaintiff's Rule 26(a)(3) pretrial disclosures
January 5, 2024	April 4, 2024	Defendant's Rule 26(a)(3) pretrial disclosures
January 19, 2024	April 18, 2024	Special Attorney Conference
January 19, 2024	April 18, 2024	Settlement Conference
February 12, 2024, at 3:00 pm	May 13, 2024	Final Pretrial Conference
March 4, 2024, at 8:30 am	June 3, 2024	Trial

All other provisions of the Scheduling Order, entered as ECF No. 25, the First Amended Scheduling order, entered as ECF No. 28, or the Second Amended Scheduling Order, entered as ECF No. 35, not modified above shall remain the same. The parties have submitted herewith a proposed order granting the requested relief.

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Respectfully submitted this 10th day of March, 2023.

Attorneys for Plaintiff Blendtec Inc.:

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/s/ Tamara L. Kapaloski

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CERTIFICATE OF SERVICE

I hereby certify that on March 10th, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send an electronic notification to counsel of record for all parties, including the following:

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